

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

BASF AGRO B.V., ARNHEM (NL),
WÄDENSWIL BRANCH,
BAYER S.A.S., and MERIAL LIMITED

Plaintiffs,

v.

CHEMINOVA, INC.,

Defendant.

Civil Action No. 10-cv-274

JOINT MOTION TO AMEND SCHEDULING ORDER

Pursuant to Federal Rule of Civil Procedure 16, plaintiffs BASF Agro B.V., Arnhem (NL), Wädenswil Branch (“BASF”), Bayer S.A.S. (“Bayer”) and Merial Limited (“Merial”) (collectively, “Plaintiffs”) and defendant Cheminova, Inc. (together with Plaintiffs, the “Parties”) hereby move this Court for a revised scheduling and case management order, as set forth in Exhibit A hereto.

As grounds for this motion, the Parties state that, in light of the Court's recent scheduling of dates for the hearing of remaining *Markman* issues and of Cheminova's pending summary judgment motion, and in light of the Court's recent statements regarding the continued maintenance of this case on the July 2011 trial calendar, the Parties have agreed to a revised proposed case management schedule. The proposed schedule contemplates hearings on remaining *Markman* issues and on Cheminova's summary judgment motion on June 20-21, and contemplates a continuance of the case

from the July 2011 to the October 2011 trial calendars, subject to an earlier trial setting (should the Court's schedule allow) on or after September 6, 2011, on four weeks advance notice to the parties.

WHEREFORE, for the foregoing reasons, the Parties respectfully request that the Court enter the enclosed Amended Scheduling Order.

DATED: May 24, 2011

Respectfully submitted:

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/s/ Pressly M. Millen

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EXHIBIT A

***BASF et al. v. Cheminova Inc.* (M.D.N.C. Civ. 10-274) Proposed Case Management Schedule**

EVENT	DEADLINE
Opposition brief(s) on Cheminova's summary judgment motion	May 31, 2011
Completion of expert discovery	June 2, 2011
Reply brief on Cheminova's summary judgment motion	June 14, 2011
Hearing on Cheminova's motion for summary judgment with respect to Application Patent issues, and <i>Markman</i> hearing on remaining Application Patent issues ¹	June 20, 2011
Hearing on Cheminova's motion for summary judgment with respect to Manufacturing Patent issues, and <i>Markman</i> hearing on Manufacturing Patent issues ¹	June 21, 2011
Commencement of trial on patent liability issues	October trial calendar, with trial to be scheduled as soon on or after September 6, 2011 as Court's schedule may allow, on four weeks advance notice of trial setting

¹ Subject to Court approval, the parties reserve the right to submit short supplemental briefs on *Markman* issues involving expert deposition testimony, and will do so at least seven days prior to the scheduled *Markman* hearing(s).

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Defendant.

[PROPOSED] ORDER

THIS MATTER came before the Court upon the Parties' joint motion pursuant to Rule 16 to amend the schedule in this matter. Being fully apprised in the premises, the Court finds that good cause supports the motion and it is **HEREBY GRANTED**. Unless otherwise ordered, the case schedule will proceed as follows:

EVENT	DEADLINE
Opposition brief(s) on Cheminova's summary judgment motion	May 31, 2011
Completion of expert discovery	June 2, 2011
Reply brief on Cheminova's summary judgment motion	June 14, 2011
Hearing on Cheminova's motion for summary judgment with respect to Application Patent issues, and <i>Markman</i> hearing on remaining Application Patent issues ¹	June 20, 2011
Hearing on Cheminova's motion for summary judgment with respect to	June 21, 2011

¹ Subject to Court approval, the parties reserve the right to submit short supplemental briefs on *Markman* issues involving expert deposition testimony, and will do so at least seven days prior to the scheduled *Markman* hearing(s).

Manufacturing Patent issues, and <i>Markman</i> hearing on Manufacturing Patent issues ¹	
Commencement of trial on patent liability issues	October trial calendar, with trial to be scheduled as soon on or after September 6, 2011 as Court's schedule may allow, on four weeks advance notice of trial setting

SO ORDERED this the ____ day of _____, 2011.

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of May, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to:

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